

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

SANRDO S. PEREZ,

No. 1:20-cv-00840-DAD-SAB (PC)

Plaintiff,

v.

A. SMITH, et al.,

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DISMISSING
CERTAIN CLAIMS

Defendants.

(Doc. No. 13)

Plaintiff Sandro S. Perez is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action brought pursuant to 42 U.S.C. § 1983. This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On July 22, 2020, the assigned magistrate judge screened plaintiff's complaint and found that plaintiff had stated a cognizable claim against defendants A. Smith, D. Schuller, G. Nwachukwu, J. Burell, V. Giannandrea, J. Trujillo-Villa, J. Szalai, J. Alvarez, and an unidentified designated custody supervisor at Avenal State Prison (ASP) for deliberate indifference to plaintiff's safety in violation of the Eighth Amendment of the U.S. Constitution, but that he failed to state any other cognizable claims against the named defendants. (Doc. No. 10.) Plaintiff was granted leave to file an amended complaint or notify the court of his willingness to proceed only on the claim found to be cognizable in the screening order within thirty (30) days after service of

1 the screening order. (*Id.* at 7–8.) On July 31, 2020, plaintiff notified the court that he was willing
2 to proceed only on the claim identified by the magistrate judge in the screening order as
3 cognizable. (Doc. No. 11.)

4 Consequently, on August 6, 2020, the assigned magistrate judge issued findings and
5 recommendations recommending that this action proceed on plaintiff's claim against defendants
6 A. Smith, D. Schuller, G. Nwachukwu, J. Burell, V. Giannandrea, J. Trujillo-Villa, J. Szalai, J.
7 Alvarez, and an unidentified ASP designated custody supervisor for deliberate indifference to
8 plaintiff's safety in violation of the Eighth Amendment of the U.S. Constitution. (Doc. No. 13.)
9 The findings and recommendations also recommended that all of the other claims brought by
10 plaintiff in his complaint be dismissed due to plaintiff's failure to state a cognizable claim on
11 those claims. (*Id.* at 2.) Those findings and recommendations were served on plaintiff and
12 contained notice that any objections thereto were to be filed within fourteen (14) days after
13 service. (*Id.*) No objections have been filed and the time in which to do so has now passed.

14 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a
15 *de novo* review of the case. Having carefully reviewed the entire file, the court concludes that the
16 findings and recommendations are supported by the record and proper analysis.

17 Accordingly,

18 1. The findings and recommendations issued on August 6, 2020 (Doc. No. 13) are
19 adopted in full;

20 2. This action shall proceed on plaintiff's claim against defendants A. Smith, D.
21 Schuller, G. Nwachukwu, J. Burell, V. Giannandrea, J. Trujillo-Villa, J. Szalai, J.
22 Alvarez, and an unidentified ASP designated custody supervisor for deliberate
23 indifference to plaintiff's safety in violation of the Eighth Amendment of the U.S.
24 Constitution;

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3. All other claims are dismissed; and
4. This action is referred back to the assigned magistrate judge for further proceedings consistent with this order.

IT IS SO ORDERED.

Dated: September 29, 2020

Dale A. Troyd
UNITED STATES DISTRICT JUDGE